



Americans with Disability Act (ADA) Policy

Purpose

To enforce the Americans with Disabilities Act (ADA) which prohibits discrimination in job application procedures, hiring, firing, advancement, compensation, and training for those individuals with disabilities. This act also applies to recruitment, advertising, tenure, layoffs, leaves, fringe benefits, and all other employment-related activities.

Scope

This policy applies to all Ohio Department of Agriculture (ODA) employees, including full-time, part-time, interim, and seasonal employees.

Definitions

Disability. A physical or mental impairment which substantially limits one or more of the major life activities of an individual.

Qualified individual with a disability. An individual with a disability who, with or without reasonable accommodation, can perform essential functions of the employment position that such individual holds or desires. Illegal use of drugs are excluded from the definition of “qualified individual with a disability” protected by the ADA when employment actions are taken on the basis of drug use.

Essential job functions. Those functions actually performed in the job, the removal of which would fundamentally alter the position. To determine whether a function is essential, it must be determined whether the position exists to perform that function and whether there are other employees available to share that function, as well as the degree of expertise required to perform the function. Whether a function is essential also depends on the content of the written job descriptions, the terms of the collective bargaining agreement, the time spent performing the particular function and the consequences of failing to require the employee to perform the function.

Reasonable accommodation. A modification or adjustment to a job, the work environment or the way things are done that enables a qualified individual with a disability to perform essential job functions. Such accommodation is required unless it poses an undue hardship on the employer. The determination of what accommodation is reasonable in a particular situation involves a process in which ODA and the employee identify the precise limitations imposed by the disability and explore potential accommodations that would overcome those limitations.

Undue hardship. Any accommodation that is substantial or disruptive or would be unduly costly to ODA or that would fundamentally alter the nature or operation of the unit.

Major life activities. Include caring for oneself, performing manual tasks, walking, sitting, standing, lifting, reaching, seeing, hearing, speaking, breathing, learning, working, eating, sleeping, standing, lifting, bending, reading, concentrating, thinking and communicating, as well as the operation of major bodily functions including but not limited to functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions. This is not an exhaustive list.

Substantially limits. An impairment is substantially limiting if it significantly restricts the duration, manner or condition under which an individual can perform a particular major life activity as compared to the ability



of the average person in the general population to perform that same major life activity. In these instances, the following factors will be considered: (1) the nature and severity of the impairment; (2) the duration or expected duration of the impairment; (3) the permanent or long-term impact resulting from the impairment.

Authority

Ohio Revised Code (ORC) Chapter 4112
Ohio Administrative Code (OAC) Section 123:1-49-02
OCSEA Article 2
The Americans with Disability Act of 1990, Titles I and II
The Americans with Disabilities Amendments Act of 2008 (ADAAA)
The Rehabilitation Act 1973, Section 504 and 508

Policy

I. It is a violation of ODA policy to discriminate in employment against a qualified person in regard to any employment practice or term, condition or privilege of employment because that person currently has a disability, at one time had a disability or is regarded as having a disability. It is also a violation of this policy to deny an employment opportunity or benefit or otherwise discriminate against an individual, whether or not the individual has a disability, because that individual has a known relationship or association with a person who has a disability.

II. It is ODA policy to determine essential job functions based on an individualized inquiry into each position filled and to determine whether the person with a disability can perform these functions unaided or with reasonable accommodation.

III. It is against ODA policy to use qualification standards or selection criteria that would screen out or tend to screen out, individuals with disabilities, unless such measures are both job related and necessary to the safe and efficient operation of the business.

IV. The affirmative obligation to provide reasonable accommodation applies to individuals seeking employment with ODA and to current staff members who become disabled while employed with ODA.

4 IV. Applicants/employees making requests for a reasonable accommodation are required to maintain pre-requisite qualifications for positions, and must be able to perform the essential job functions, with or without a reasonable accommodation.

Penalties

Discrimination and harassment is inappropriate and will not be tolerated. Employees in violation of this policy are subject to discipline up to, and including termination.

Procedures

ODA is committed to the full inclusion of all qualified individuals. As part of this commitment, ODA will ensure that persons with disabilities are provided with reasonable accommodations.

1. Reasonable Accommodations

- a. A representative of Human Resources will assess requests for reasonable accommodations for a known disability of a qualified candidate or employee. If not already known that the employee has a disability in need of accommodation, a request for accommodation is made to Human Resources or their supervisor. It may be made by employee, and may use everyday language (illness, condition, help) or ADA language (accommodation, disability,



etc.). If the employee is uncomfortable approaching a supervisor, the employee may choose to speak solely with a representative of Human Resources. Any request for accommodation should be made as soon as possible, including employees returning from leaves of absence for medical reasons. Requests shall be made using an “Reasonable Accommodation Medical Verification and Inquiry Form” which is available in the Human Resources office.

- b. Approval of a request for accommodation shall be based on several factors, including the essential functions of the position, that a qualified individual with a disability is requesting the accommodation, safety, and a determination that the accommodation will not impose an undue hardship on ODA operations

2. Interactive Process

- a. Upon receipt of the “Attending Physician Statement for ADA” by Human Resources, an internal review will commence to determine the medical condition is qualified for an ADA accommodation.
- b. A Human Resources representative, with input from the employee, will identify the employee's workplace accommodation needs. This individual will:
 - i. Discuss the needs with the employee who made the request;
 - ii. Review the job description and identify the essential functions of the job; and
 - iii. Keep disability related information with Human Resources which shall keep such information separate from the employee's personnel file. Discuss it only with human resource staff, individuals who implement the accommodation, and individuals the employee identifies.
- c. A meeting with the employee, division management where the employee works (e.g., supervisor, Division Chief or designee), and a representative from Human Resources may be scheduled to determine the requested accommodation and discuss the application of such accommodation and its impact within the employee's work setting.
- d. Human Resources representatives may consult with an external expert to aid in review and consideration of facts on each case.
- e. Human Resources shall work with the assigned representative or supervisor to determine if the employee has an accommodation need. Documentation of an accommodation need should include the following:
 - i. Confirmation that there is a disability that impacts work;
 - ii. A description of the relevant impacts;
 - iii. Clarification of the connection between impact and requested accommodation if needed;
 - iv. Suggestions for other accommodations; and
 - v. Recommendations on when to review the effectiveness of accommodations.

3. Reasonable Accommodation Approval/Denial

- a. The employee requesting accommodation will be notified by Human Resources in writing of the approval or denial of a reasonable accommodation.
- b. If the reasonable accommodation is approved, written communication from Human Resources will include the reasonable accommodation that will be provided.
- c. If the accommodation is denied, written communication from Human Resources will include the reason for the denial or that no accommodations are possible.
- d. In cases of denial of a request for accommodation, the employee has a right to file an EEO complaint or enter into an informal dispute resolution process. Individuals who believe they have been excluded from an employment opportunity, benefit, or program, or been denied a reasonable accommodation are encouraged to contact Human Resources.
- e. If the reasonable accommodation is approved, the Division Chief and supervisor of the employee will be notified by Human Resources.



- f. The approved reasonable accommodation will be implemented within a reasonable time considering the accommodation to be provided and/or items needed to purchase, if any.
- g. If the initially requested accommodation is denied, ODA may suggest alternative accommodations. If the employee agrees to the alternative accommodations, the employee will sign a written consent to such accommodations.
- h. Once any approved accommodations are in place, the supervisor and Human Resources should review the accommodations periodically.
 - i. Any accommodations should be monitored to ensure the adaptation permits the employee to complete the task(s) and are effective; and
 - ii. If necessary, accommodations should be modified for effectiveness as provided in the next section.

4. Modifications or Discontinuation of Approved Accommodation

- a. In situations where changes occur which may make an accommodation no longer effective or useful, modifications to approved accommodations shall be reviewed through the interactive process as described in this procedure.
- b. In situations where an employee deems it no longer necessary to utilize approved reasonable accommodations, the employee must notify a representative of Human Resources in writing. Discontinuing the use of the accommodations must be reviewed/approved by Human Resources.
- c. In situations of discontinuing the use of approved accommodations, the employee requesting discontinuation will receive a written communication from Human Resources of the approval or denial of such requests.
- d. Employees requesting to discontinue the use of established approved reasonable accommodations may be required to submit information from attending physician to justify their request that the accommodation is no longer required.

Contacts

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Revision History

Date	Description of Change
7/2015	Policy issued

